

Notice of Allowability

Application No.

09/724,403

Applicant(s)

MAEKAWA, SHINJI

Examiner

Stephen W. Smoot

Art Unit

2813

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable; PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to applicant's amendment filed on 08 August 2006.
2. ☒ The allowed claim(s) is/are 1-6,20-30,44,50,52,58,61-67 and 71.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

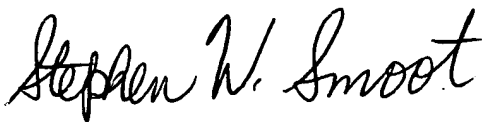
* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____



Stephen W. Smoot
Patent Examiner
Art Unit 2813

EXAMINER'S AMENDMENT

This Office action is in response to applicant's amendment filed on 08 August 2006.

Examiner's Amendment

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

2. The application has been amended as follows:

In the Specification:

Change the Title of the Invention to --Method of Manufacturing a Semiconductor Device that Includes Forming a Material with a High Tensile Stress in Contact with a Semiconductor Film to Getter Impurities from the Semiconductor Film--.

In the Claims:

Cancel claims 7-19, 31-43, 45-49, 51, 53-57, 59-60, 68-70.

Response to Arguments

3. Applicant's argument, see pages 1-2, filed on 08 August 2006, with respect to the tensile stress limitation has been fully considered and is persuasive. Specifically, the applicant's originally filed specification at page 34, lines 6-16 shows that the tensile stress of the material depends on other factors (e.g. gettering temperature and gettering time) besides just the type of material used. Accordingly, the presumption of inherency cannot be maintained and the rejection of claims 61, 65-66, 71 under 35 USC 103(a) has been withdrawn.

Election/Restrictions

4. Claims 61, 65-66, 71 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 30 November 2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 1-6, 20-30, 44, 50, 52, 58, 62-64, 67, directed to species that include the limitation "forming a material having a tensile stress of 8×10^9 dynes/cm² or more in contact with the semiconductor film" are no longer withdrawn from consideration because this claim limitation distinguishes claims 1-6, 20-30, 44, 50, 52, 58, 62-64, 67 from the prior art made of record. However, claims 7-19,

31-43, 45-49, 51, 53-57, 59-60, 68-70, remain withdrawn from consideration because they are directed to species that do not include this claim limitation.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

5. This application is in condition for allowance except for the presence of claims 7-19, 31-43, 45-49, 51, 53-57, 59-60, 68-70 directed to species non-elected without traverse. Accordingly, claims 7-19, 31-43, 45-49, 51, 53-57, 59-60, 68-70 have been cancelled.

Allowable Subject Matter

6. Claims 1-6, 20-30, 44, 50, 52, 58, 61-67, 71 are allowed.

7. The following is an examiner's statement of reasons for allowance: Claims 1-6, 20-30, 44, 50, 52, 58, 61-67, 71 are allowed because the prior art of record does not

teach or suggest, in combination with the other claim limitations, a method of manufacturing a semiconductor device that includes forming a material having a tensile stress of 8×10^9 dynes/cm² or more in contact with a semiconductor film, whereby an impurity element is gettered into the material.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen W. Smoot whose telephone number is 571-272-1698. The examiner can normally be reached on M-F (8:00 am to 4:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Whitehead, Jr. can be reached on 571-272-1702. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SWS